

EXHIBIT D

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

(Mark One)



**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934 (No Fee Required)**

For the Fiscal Year Ended December 31, 2005
or



**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934 (No Fee Required)**

Commission File No. 1-32630

Fidelity National Title Group, Inc.

(Exact name of registrant as specified in its charter)

Delaware

*(State or other jurisdiction
of incorporation or organization)*

601 Riverside Avenue

Jacksonville, Florida 32204

*(Address of principal executive offices,
including zip code)*

16-1725106

*(I.R.S. Employer
Identification No.)*

(904) 854-8100

*(Registrant's telephone number,
including area code)*

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock, Class A, \$.0001 par value	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K, or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (See definitions of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.)

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

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On August 1, 2005, we acquired Service Link, L.P. ("Service Link"), a national provider of centralized mortgage and residential real estate title and closing services to major financial institutions and institutional lenders. The acquisition price was approximately \$110.2 million in cash.

On March 22, 2004, we acquired American Pioneer Title Insurance Company ("APTIC") for \$115.2 million in cash. APTIC is a title insurance underwriter licensed in 45 states with significant agency operations and computerized title plant assets in the state of Florida. APTIC now operates under our Ticor Title brand.

Title Insurance

Market for title insurance. The title insurance market in the United States is large and has grown in the last 10 years. According to Demotech, Inc. ("Demotech"), total operating income for the entire U.S. title insurance industry grew from \$4.8 billion in 1995 to \$15.5 billion in 2004. Growth in the industry is closely tied to various macroeconomic factors, including, but not limited to, growth in the gross national product, inflation, interest rates and sales of and prices for new and existing homes, as well as the refinancing of previously issued mortgages.

Most real estate transactions consummated in the U.S. require the use of title insurance by a lending institution before a transaction can be completed. Generally, revenues from title insurance policies are directly correlated with the value of the property underlying the title policy, and appreciation in the overall value of the real estate market helps drive growth in total industry revenues. Industry revenues are also driven by changes in interest rates, which affect demand for new mortgage loans and refinancing transactions.

The U.S. title insurance industry is concentrated among a handful of industry participants. According to Demotech, the top five title insurance companies accounted for 90.2% of net premiums collected in 2004. Over 40 independent title insurance companies accounted for the remaining 9.8% of net premiums collected in 2004. Over the years, the title insurance industry has been consolidating, beginning with the merger of Lawyers Title Insurance and Commonwealth Land Title Insurance in 1998 to create LandAmerica Financial Group, Inc., followed by FNF's acquisition of Chicago Title in March 2000. Consolidation has created opportunities for increased financial and operating efficiencies for the industry's largest participants and should continue to drive profitability and market share in the industry.

Title Insurance Policies. Generally, real estate buyers and mortgage lenders purchase title insurance to insure good and marketable title to real estate and priority of the lien. A brief generalized description of the process of issuing a title insurance policy is as follows:

- The customer, typically a real estate salesperson or broker, escrow agent, attorney or lender, places an order for a title policy.
- Company personnel note the specifics of the title policy order and place a request with the title company or its agents for a preliminary report or commitment.
- After the relevant historical data on the property is compiled, the title officer prepares a preliminary report that documents the current status of title to the property, any exclusions, exceptions and/or limitations that the title company might include in the policy, and specific issues that need to be addressed and resolved by the parties to the transaction before the title policy will be issued.
- The preliminary report is circulated to all the parties for satisfaction of any specific issues.
- After the specific issues identified in the preliminary report are satisfied, an escrow agent closes the transaction in accordance with the instructions of the parties and the title company's conditions.
- Once the transaction is closed and all monies have been released, the title company issues a title insurance policy.

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In a real estate transaction financed with a mortgage, virtually all real property mortgage lenders require their borrowers to obtain a title insurance policy at the time a mortgage loan is made. This lender's policy insures the lender against any defect affecting the priority of the mortgage in an amount equal to the outstanding balance of the related mortgage loan. An owner's policy is typically also issued, insuring the buyer against defects in title in an amount equal to the purchase price. In a refinancing transaction, only a lender's policy is generally purchased because ownership of the property has not changed. In the case of an all-cash real estate purchase, no lender's policy is issued but typically an owner's title policy is issued.

Title insurance premiums paid in connection with a title insurance policy are based on (and typically a percentage of) either the amount of the mortgage loan or the purchase price of the property insured. Title insurance premiums are due in full at the closing of the real estate transaction. The lender's policy generally terminates upon the refinancing or resale of the property.

The amount of the insured risk or "face amount" of insurance under a title insurance policy is generally equal to either the amount of the loan secured by the property or the purchase price of the property (subject to adjustment if the policy includes inflation adjustment provisions). The title insurer is also responsible for the cost of defending the insured title against covered claims. The insurer's actual exposure at any given time, however, generally is less than the total face amount of policies outstanding because the coverage of a lender's policy is reduced and eventually terminated as a result of payment of the mortgage loan. Because of these factors, the total liability of a title underwriter on outstanding policies cannot be precisely determined.

Title insurance companies typically issue title insurance policies directly through branch offices or through title agencies which are subsidiaries of the title insurance company, and indirectly through independent third party agencies unaffiliated with the title insurance company. Where the policy is issued through a branch or wholly-owned subsidiary agency operation, the title company typically performs or directs the search, and the premiums collected are retained by the title company. Where the policy is issued through an independent agent, the agent generally performs the search (in some areas searches are performed by approved attorneys), examines the title, collects the premium and retains a majority of the premium. The remainder of the premium is remitted to the title company as compensation, part of which is for bearing the risk of loss in the event a claim is made under the policy. The percentage of the premium retained by an agent varies from region to region and is sometimes regulated by the states. The title company is obligated to pay title claims in accordance with the terms of its policies, regardless of whether the title company issues policies through its direct operations or through independent agents.

Prior to issuing policies, title insurers and their agents attempt to reduce the risk of future claim losses by accurately performing searches and examinations. A title company's predominant expense relates to such searches and examinations, the preparation of preliminary title reports, policies or commitments and the maintenance of title "plants," which are indexed compilations of public records, maps and other relevant historical documents. Claim losses generally result from errors made in the title search and examination process and from hidden defects such as fraud, forgery, incapacity, or missing heirs of the property.

Residential real estate business results from the construction, sale, resale and refinancing of residential properties, while commercial real estate business results from similar activities with respect to properties with a business or commercial use. Commercial real estate title insurance policies insure title to commercial real property, and generally involve higher coverage amounts and yield higher premiums. Residential real estate transaction volume is primarily affected by macroeconomic and seasonal factors while commercial real estate transaction volume is affected primarily by fluctuations in local supply and demand conditions for commercial space.

Direct and Agency Operations. We provide title insurance services through our direct operations and through independent title insurance agents who issue title policies on behalf of our title insurance companies. Our title insurance companies determine the terms and conditions upon which they will insure title to the real property according to their underwriting standards, policies and procedures.

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Direct Operations. In our direct operations, the title insurer issues the title insurance policy and retains the entire premium paid in connection with the transaction. Our direct operations provide the following benefits:

- higher margins because we retain the entire premium from each transaction instead of paying a commission to an independent agent;
- continuity of service levels to a broad range of customers; and
- additional sources of income through escrow and closing services.

We have approximately 1,500 offices throughout the U.S. primarily providing residential real estate title insurance. Our commercial real estate title insurance business is operated almost exclusively through our direct operations. We maintain direct operations for our commercial title insurance business in all the major real estate markets including New York, Los Angeles, Chicago, Atlanta, Dallas, Philadelphia, Phoenix, Seattle and Houston.

Agency Operations. In our agency operations, the search and examination function is performed by an independent agent or the agent may purchase the search and examination from us. In either case, the agent is responsible to ensure that the search and examination is completed. The agent thus retains the majority of the title premium collected, with the balance remitted to the title underwriter for bearing the risk of loss in the event that a claim is made under the title insurance policy. Independent agents may select among several title underwriters based upon their relationship with the underwriter, the amount of the premium "split" offered by the underwriter, the overall terms and conditions of the agency agreement and the scope of services offered to the agent. Premium splits vary by geographic region. Our relationship with each agent is governed by an agency agreement defining how the agent issues a title insurance policy on our behalf. The agency agreement also sets forth the agent's liability to us for policy losses attributable to the agent's errors. An agency agreement is usually terminable without cause upon 30 days' notice or immediately for cause. In determining whether to engage or retain an independent agent, we consider the agent's experience, financial condition and loss history. For each agent with whom we enter into an agency agreement we maintain financial and loss experience records. We also conduct periodic audits of our agents.

Fees and Premiums. One method of analyzing our business is to examine the level of premiums generated by direct and agency operations. The following table presents the percentages of our title insurance premiums generated by direct and agency operations:

	Year Ended December 31,					
	2005		2004		2003	
	Amount	%	Amount	%	Amount	%
	(Dollars in thousands)					
Direct	\$ 2,184,993	44.2%	\$ 2,003,447	42.5%	\$ 2,105,317	44.8%
Agency	2,763,973	55.8%	2,714,770	57.5%	2,595,433	55.2
Total title insurance Premiums	<u>\$ 4,948,966</u>	<u>100.0%</u>	<u>\$ 4,718,217</u>	<u>100.0%</u>	<u>\$ 4,700,750</u>	<u>100.0%</u>

The premium for title insurance is due in full when the real estate transaction is closed. We recognize title insurance premium revenues from direct operations upon the closing of the transaction, whereas premium revenues from agency operations include an accrual based on estimates of the volume of transactions that have closed in a particular period for which premiums have not yet been reported to us. The accrual for agency premiums is necessary because of the lag between the closing of these transactions and the reporting of these policies to us by the agent, and is based on estimates utilizing historical information.

Geographic Operations. Our direct operations are divided into approximately 244 profit centers consisting of more than 1,500 direct offices. Each profit center processes title insurance transactions within its geographical area, which is usually identified by a county, a group of counties forming a region, or a state, depending on the management structure in that part of the country. We also transact title insurance business

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approximate actual experience or that expectations derived from them will be realized. When used in our documents or oral presentations, the words "anticipate," "believe," "estimate," "objective," "projection," "forecast," "goal," or similar words are intended to identify forward-looking statements.

Additional Information

Our website address is www.fntg.com. We make available free of charge on or through our website our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and all amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission. However, the information found on our website is not part of this or any other report.

Item 1A. Risk Factors

In addition to the normal risks of business, we are subject to significant risks and uncertainties, including those listed below and others described elsewhere in this Annual Report on Form 10-K or incorporated herein. Any of the risks described herein could result in a significant or material adverse effect on our results of operations or financial condition.

If adverse changes in the levels of real estate activity occur, our revenues may decline.

Title insurance revenue is closely related to the level of real estate activity which includes sales, mortgage financing and mortgage refinancing. The levels of real estate activity are primarily affected by the average price of real estate sales, the availability of funds to finance purchases and mortgage interest rates. While both the volume and the average price of residential real estate transactions have recently experienced record highs, we do not expect these trends to continue. Further, interest rates have risen from record low levels in 2003, resulting in reductions in the level of mortgage refinancings and total mortgage originations in 2004 and again in 2005.

We have found that residential real estate activity generally decreases in the following situations:

- when mortgage interest rates are high or increasing;
- when the mortgage funding supply is limited; and
- when the United States economy is weak.

If either the level of real estate activity or the average price of real estate sales declines, it could adversely affect our title insurance revenues. The Mortgage Bankers Association currently projects residential mortgage production in 2006 to be \$2.24 trillion, which would represent a 19.2% decline relative to 2005. The MBA further projects that the 19.2% decrease will result from purchase transactions declining from \$1.49 billion in 2005 to \$1.43 billion in 2006, or 3.6%, and refinancing transactions dropping from \$1.29 billion to \$0.81 billion, or 37.1%.

Our subsidiaries must comply with extensive regulations. These regulations may increase our costs or impede, or impose burdensome conditions on, actions that we might seek to take to increase the revenues of our subsidiaries.

Our insurance businesses are subject to extensive regulation by state insurance authorities in each state in which we operate. These agencies have broad administrative and supervisory power relating to the following, among other matters:

- licensing requirements;
- trade and marketing practices;
- accounting and financing practices;

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Title insurance revenue is closely related to the level of real estate activity and the average price of real estate sales. Real estate sales are directly affected by the availability of funds to finance purchases, predominantly mortgage interest rates. Other factors affecting real estate activity include, but are not limited to, demand for housing, employment levels, family income levels and general economic conditions. In addition to real estate sales, mortgage refinancing is an important source of title insurance revenue. We have found that residential real estate activity generally decreases in the following situations:

- when mortgage interest rates are high or increasing;
- when the mortgage funding supply is limited; and
- when the United States economy is weak.

Because commercial real estate transactions tend to be driven more by supply and demand for commercial space and occupancy rates in a particular area rather than by macroeconomic events, our commercial real estate title insurance business can generate revenues which are not dependent on the industry cycles discussed above.

Because these factors can change dramatically, revenue levels in the title insurance industry can also change dramatically. For example, beginning in the second half of 1999 and through 2000, steady interest rate increases caused by actions taken by the Federal Reserve Board resulted in a significant decline in refinancing transactions. As a result, the market shifted from a refinance-driven market in 1998 to a more traditional market driven by new home purchases and resales in 1999 and 2000. However, beginning in January 2001 and continuing through June of 2003, the Federal Reserve Board reduced interest rates by 550 basis points, bringing interest rates down to their lowest level in recent history, which again significantly increased the volume of refinance activity. In 2004 and 2005, mortgage rates increased as the Federal Reserve Board increased interest rates by 325 basis points since June 2004, resulting in decreases in refinance activity. Notwithstanding the increase in interest rates, home prices appreciated strongly in many markets in 2004, benefiting our revenues. In 2005, refinance activity has been lower than in 2004, but purchase loan originations have continued to increase and home prices have continued to appreciate. The decreased refinance activity is evidenced by the Mortgage Bankers Association's ("MBA") statistics showing that approximately 46.5% of new loan originations in 2005 were refinance transactions as compared with approximately 52.8% in 2004. The ten-year treasury rate has increased from 3.0% in June 2003 to 4.5% at the end of 2005. According to the MBA, U.S. mortgage originations (including refinancings) were approximately \$2.4 trillion, \$2.8 trillion, and \$3.8 trillion in 2005, 2004, and 2003, respectively. The MBA's Mortgage Finance Forecast estimates a \$2.24 trillion mortgage origination market for 2006, which would be a 19.2% decrease from 2005. The MBA further predicts that the 19.2% decrease will result from purchase transactions declining from \$1.49 billion in 2005 to \$1.43 billion in 2006, or 3.6%, and refinancing transactions dropping from \$1.29 billion to \$0.81 billion, or 37.1%. We expect that current interest rate levels and any future increase in interest rates will most likely result in lower levels of mortgage originations in 2006 than in 2005 or 2004.

Historically, real estate transactions have produced seasonal revenue levels for title insurers. The first calendar quarter is typically the weakest quarter in terms of revenue due to the generally low volume of home sales during January and February. The third calendar quarter is typically the strongest in terms of revenue due to a higher volume of home sales in the summer months and the fourth quarter is also strong due to commercial customers desiring to complete transactions by year end. Significant changes in interest rates may alter these traditional seasonal patterns due to the effect the cost of financing has on the volume of real estate transactions.

Critical Accounting Estimates

The accounting estimates described below are those we consider critical in preparing our Consolidated and Combined Financial Statements. Management is required to make estimates and assumptions that can affect the reported amounts of assets and liabilities and disclosures with respect to contingent assets and liabilities at the date of the Consolidated and Combined Financial Statements and the reported amounts of

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FIDELITY NATIONAL TITLE GROUP, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS — (Continued)

The significant components of deferred tax assets and liabilities at December 31, 2005 and 2004 consist of the following:

	December 31,	
	2005	2004
	(In thousands)	
Deferred tax assets:		
Employee benefit accruals	\$ 45,290	\$ 68,278
Pension	20,168	24,318
Accrued liabilities	16,161	8,474
Investment securities	11,984	—
State income taxes	10,605	10,793
Other	9,645	8,777
Total deferred tax assets	<u>\$ 113,853</u>	<u>\$ 120,640</u>
Deferred tax liabilities:		
Amortization of goodwill and intangible assets	\$ (26,303)	\$ (27,040)
Title plant	(59,757)	(58,141)
Other	(12,396)	(18,973)
Depreciation	(17,532)	(22,083)
Insurance reserve basis differences	(60,070)	(26,589)
Investment securities	—	(8,395)
Bad debts	(11,090)	(10,667)
Lease accounting	(2,544)	—
Total deferred tax liabilities	<u>(189,692)</u>	<u>(171,888)</u>
Net deferred tax liability	<u>\$ (75,839)</u>	<u>\$ (51,248)</u>

Management believes that based on its historical pattern of taxable income, the Company will produce sufficient income in the future to realize its deferred tax assets or the realization of its deferred tax assets will coincide with the turnaround in its deferred tax liabilities. A valuation allowance will be established for any portion of a deferred tax asset that management believes may not be realized. Adjustments to the valuation allowance will be made if there is a change in management's assessment of the amount of deferred tax asset that is realizable.

As of January 1, 2005, FNF has agreed to participate in a new Internal Revenue Service pilot program (Compliance Audit Program or CAP) that is a real-time audit for 2005 and future years. The Internal Revenue Service is also currently examining FNF's tax returns for years 2004, 2003 and 2002. Management believes the ultimate resolution of this examination will not result in a material adverse effect to the Company's financial position or results of operations.

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FIDELITY NATIONAL TITLE GROUP, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED AND COMBINED FINANCIAL STATEMENTS — (Continued)

I. Summary of Reserve for Claim Losses

Following is a summary of the reserve for claim losses:

	Year Ended December 31,		
	2005	2004 (In thousands)	2003
Beginning balance	\$ 980,746	\$ 932,439	\$ 887,973
Reserves assumed(1)	1,000	38,597	4,203
Claim loss provision related to:			
Current year	319,730	275,982	237,919
Prior years	34,980	(16,580)	10,915
Total claim loss provision	<u>354,710</u>	<u>259,402</u>	<u>248,834</u>
Claims paid, net of recoupments related to:			
Current year	(14,479)	(19,095)	(11,591)
Prior years	(258,120)	(230,597)	(196,980)
Total claims paid, net of recoupments	<u>(272,599)</u>	<u>(249,692)</u>	<u>(208,571)</u>
Ending balance	\$ <u>1,063,857</u>	\$ <u>980,746</u>	\$ <u>932,439</u>
Provision for claim losses as a percentage of title premiums	<u>7.2%</u>	<u>5.5%</u>	<u>5.3%</u>

- (1) The Company assumed the outstanding reserve for claim losses of Service Link, APTIC, and ANFI in connection with their acquisitions in 2005, 2004, and 2003, respectively.

Management continually updates loss reserve estimates as new information becomes known, new loss patterns emerge, or as other contributing factors are considered and incorporated into the analysis of reserve for claim losses. The unfavorable development on the prior years' loss reserve during 2005 reflects the increase in losses incurred and loss payments during 2005 on previous policy years, resulting in an increase in estimated ultimate losses in previous policy years. The title loss provision in 2004 reflects a higher estimated loss for the 2004 policy year offset in part by a favorable adjustment from previous policy years. The favorable adjustment was attributable to lower than expected payment levels on previous issue years that included periods of increased resale activity as well as a high proportion of refinance business. As a result, title policies issued in previous years have been replaced by the more recently issued policies, therefore generally terminating much of the loss exposure on the previously issued policies. The unfavorable development during 2003 reflects the higher than expected payment levels on previously issued policies.

J. Commitments and Contingencies

The Company's title insurance underwriting subsidiaries are, in the ordinary course of business, subject to claims made under, and from time-to-time are named as defendants in legal proceedings relating to, policies of insurance they have issued or other services performed on behalf of insured policyholders and other customers. The Company believes that the reserves reflected in its Consolidated and Combined Financial Statements are adequate to pay losses and loss adjustment expenses which may result from such claims and proceedings; however, such estimates may be more or less than the amount ultimately paid when the claims are settled.

In the ordinary course of business, the Company is involved in various pending and threatened litigation matters related to its operations, some of which include claims for punitive or exemplary damages. The